

AN ACT

ENTITLED, An Act to revise certain provisions related to birth records.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 34-25-8 be amended to read as follows:

34-25-8. The birth of every child born in this state shall be registered as provided in this chapter. Within seven days after the date of each live birth, there shall be filed with the department by electronic means if a facility has such capabilities, or otherwise if electronic means are not available, a certificate of such birth, which certificate shall be upon the form prescribed by the department. For certificates of birth filed after seven days, but within one year from the date of birth, the department may, by rules promulgated pursuant to chapter 1-26, require additional evidence in support of the facts of birth.

Certified copies of birth records shall be available to any person who can identify the birth record by providing the name of the person on the birth record, the date of birth, the mother's maiden name, or additional information required to locate the record. Nothing in this section prohibits the release of information contained on a birth record which would not identify any person named in the record.

If one hundred years have elapsed after the date of birth, the records of the birth in the custody of the department shall become available to the public without restriction. The department shall promulgate rules, pursuant to chapter 1-26, to provide for the continued safekeeping of these records.

Section 2. That § 34-25-9.1 be amended to read as follows:

34-25-9.1. If a birth occurs outside an institution, the certificate shall be prepared and filed by one of the following in the indicated order of priority:

- (1) The physician in attendance at or immediately after the birth, or in the absence of such a person,
- (2) Any other person in attendance at or immediately after the birth, or in the absence of such a person,

- (3) The father or mother, or, in the absence of the father and the inability of the mother, the person in charge of the premises where the birth occurred.

The department shall promulgate rules, pursuant to chapter 1-26, to establish the evidence necessary to establish the facts of birth.

Section 3. That § 34-25-13.1 be amended to read as follows:

34-25-13.1. If the mother was married at the time of conception or birth, or at any time between conception and birth, the name of the husband shall be entered on the certificate as the father of the child unless:

- (1) Paternity has otherwise been determined by a court of competent jurisdiction, in which case the name of the father as determined by the court shall be entered;
- (2) The mother and the mother's husband execute joint or separate affidavits attesting that the husband is not the father of the child, in which case information about the father shall be omitted from the certificate; or
- (3) The mother executes an affidavit attesting that her husband is not the biological father and providing the name of the alleged biological father, the husband executes an affidavit attesting that he is not the biological father, and the alleged biological father executes an affidavit attesting that he is the biological father, then the attesting biological father shall be shown as the father on the certificate

Affidavits may be joint or individual, and each signature shall be individually notarized.

Section 4. That § 34-25-15 be amended to read as follows:

34-25-15. In cases of legitimation, the department, upon receipt of proof of the marriage of the parents after the birth of the child together with an affidavit of paternity signed by both parents of the child, shall prepare a new certificate of birth in the new name of the legitimated child.

Within ten days after the filing of an affidavit of acknowledgment of paternity, signed by both putative parents who are not married, the department shall add the name of the father to the

certificate of birth if paternity is not shown on the record. Upon request of the parents, the surname of the child may be changed to that of the father, in which case the department shall prepare a new birth certificate. A change in paternity, which is already shown on a birth certificate, may be made only upon receipt of a court order determining paternity.

Upon receipt of a court order or affidavits determining the paternity of a child pursuant to § 34-25-13.1, the department shall prepare a new certificate of birth. Each applicant for a new birth record shall submit a five dollar fee to the department for the preparation and filing of the record.

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I certify that the attached Act
originated in the

SENATE as Bill No. 55

Secretary of the Senate
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President of the Senate

Attest:

Secretary of the Senate

Speaker of the House

Attest:

Chief Clerk

Senate Bill No. 55

File No. _____

Chapter No. _____

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Received at this Executive Office
this ____ day of _____ ,

19__ at ____ M.

By _____
for the Governor
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The attached Act is hereby
approved this _____ day of
_____, A.D., 19__

Governor
=====

STATE OF SOUTH DAKOTA,

ss.

Office of the Secretary of State

Filed _____, 19__
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State